

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	:	
JOSEPH VOLFMAN,	:	
	:	
Plaintiff,	:	
	:	22-CV-10742 (VSB)
-against-	:	
	:	<u>ORDER</u>
MARRON PASTRY and 270 BLEECKER	:	
STREET LLC,	:	
	:	
Defendants.	:	
-----X		

VERNON S. BRODERICK, United States District Judge:

Plaintiff filed this action on December 20, 2022. (Doc. 1.) Plaintiff served Defendants on January 11, 2023. (Docs. 7,8.) Defendants’ answers were due February 1, 2023. (*See* Docs. 7, 8.) When Defendants failed to respond to Plaintiff’s complaint by February 2, I directed Plaintiff to “seek a default judgment ... in accordance with Rule 4(H) of my Individual Rules ... by no later than February 15, 2023.” (Doc. 9.) I warned Plaintiff that if he “fails to do so or otherwise demonstrate that he intends to prosecute this litigation, I may dismiss this case for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b).” (*Id.*)

On February 15, 2023, Plaintiff sought an additional 30 days to seek default judgment. (Doc. 10.) Although my Individual Rules and Practices in Civil Cases requires that such requests be made at least 48 hours to the original due date, I granted Plaintiff’s request for an extension, allowing Plaintiff until March 15 to seek a default judgment. (Doc. 11.) On March 15, 2023, Plaintiff sought certificates of default as to both Defendants, but failed to perform any of the other steps called for in my Individual Rules or request an extension of time to do so. (*See* Docs. 12, 13.)

On April 10, 2023, I ordered that Plaintiff “seek default judgment through the procedure detailed in Attachment A of my Individual Rules” prior to April 24, 2023. (Doc. 18.) I specifically quoted Rule 4H, which states that “A plaintiff seeking a default judgment must proceed by way of an order to show cause pursuant to the procedure set forth in Attachment A.” (*Id.*) On April 24, 2023, Plaintiff filed a motion for default judgment and affirmation in support. (Docs. 19, 20.) Despite being told several times to comply with my Individual Rules, Plaintiff refuses to do so. Plaintiff did not file a proposed Order to Show Cause for default judgment, failed to include the requested information in their attorney’s affidavit, and did not include all requested supporting papers. Plaintiff is given until Wednesday May 17, 2023, to cure these deficiencies. Further failure to comply with my Individual Rules will result in dismissal.

SO ORDERED.

Dated: May 10, 2023

New York, New York

A handwritten signature in black ink, reading "Vernon Broderick". The signature is written in a cursive, slightly stylized font.

Vernon S. Broderick
United States District Judge